



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

March 23, 1939

Mr. S. L. West  
County Auditor  
Van Zandt County  
Canton, Texas

Dear Mr. West:

Opinion No. 0-486  
Re: Authority for the creation  
of a road district and voting  
of bonds for the purpose of con-  
structing lateral roads within  
said district, the assessed  
valuation thereof being less  
than the county-wide road debts.

We are in receipt of your letter of March 9, 1939,  
in which you request the opinion of this department covering  
the following question:

"Can the citizens of a school district within  
this county create a road district and vote bonds  
for the purpose of constructing lateral roads within  
said district, the valuation of which is less than  
the county-wide debts?"

You are advised that it is the opinion of this  
department that a road district can be created within the county  
and vote bonds for the purpose of constructing lateral roads  
within said district wherein the assessed valuation is less  
than the county-wide debts. However, the fact that there is  
now overhanging the district and county a debt of approximately  
\$1,000,000 created for road purposes must be taken into con-  
sideration in determining the amount of debt that may be created  
against the proposed road district.

Section 1, Article 8 of the Constitution, provides  
that taxation shall be equal and uniform. Section 52, Article  
3 of the Constitution provides in substance that debt incurred

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or to be incurred for road purposes shall never exceed 25% of the assessed value of the real property located within a county, a defined road district or other political subdivision. In the case of Hawley vs. Warlick, 278 S. W. 877, the Court of Civil Appeals held that a road district created under Articles 752a and 752c, Revised Civil Statutes, 1925, pursuant to Section 52, Article 3, of the Constitution, became for road taxing purposes a body corporate and a separate and distinct entity, and the issuance and sale of bonds for road purposes and taxation of property within the district for their payment would not violate constitutional requirements that taxes be equal and uniform, though property within the district was already subject to a tax for payment of county bonds. It follows then that the creation of a debt by the proposed road district would not require a tax that would violate the constitutional inhibition against the inequality of taxation, even though there was already an outstanding debt overhanging the entire county.

We are unable to develop a formula for determining the total amount of debt that could be created upon the proposed road district for the reason that the facts stated in your letter are insufficient. However, we are offering herewith a hypothetical instance from which you may determine the amount of debt the proposed district can carry. First, we must bear in mind that the 25% restriction imposed in Section 52, Article 3, contemplates the assessed real property value, and after determining the aggregate real property value of the county and the aggregate real property value of the proposed road district, you first determine the percentage of debt over the entire county real property valuation. When you have obtained this percentage, subtract such figure from the 25% limitation; in other words, if you find the percentage of debt of the county to be 6%, you would have left within the constitutional limit the difference between 25% and 6%, or 19%. This figure of 19% then would represent the limit of the proposed debt within the new road district to that amount. For example, if the real property value within the new district totaled \$100,000, then there could be issued only \$19,000 of bonds for road purposes, for the reason that this area would then be bearing its pro rate part of the 6% debt overhanging the county plus the 19% debt incurred in its own behalf, the total of both debts being 25%, which would be within the constitutional limit of 25%.

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It is therefore the opinion of this department that the new road district may issue bonds for constructing lateral roads within said district, if the total amount of debt to be incurred therefor is within the constitutional limit prescribed in Section 52, Article 3, of the Constitution.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Clarence E. Crowe*  
Clarence E. Crowe  
Assistant

CEC-s

APPROVED:

*H. T. Moore*  
ATTORNEY GENERAL OF TEXAS

*mph*